

STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Phil Pardue)	
	Map 008-00-0, Parcel 68.00)	Davidson County
	Residential Property)	
	Tax Years 2005 & 2006)	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$35,000	\$35,700	\$70,700	\$17,675

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on September 19, 2005.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on July 20, 2006, at the Davidson County Property Assessor's Office; present at the hearing were Phil Pardue, the taxpayer who represented himself, and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a single family "underground" residence located at 3903 Baxter Road in Joelton, Tennessee.

The taxpayer, Mr. Pardue, contends that the property is worth \$57,500 based on the fact that this is an underground home that is composed of two 24' x 24' jointed concrete cubes covered with 2' to 6' of dirt. According to the homeowner there are several structural problems; water pours in at the joints between the cubes and runs through a 17' x 17' garage, also into the face of the home. There are ruined wood cabinets and windows, the French drain system does not work and the brick front has separated from the home. According to the homeowner it is too expensive to remove the dirt and dig down to the French drain system. The garage is too small for a modern long vehicle. Only ¼ of the property is easily accessible, ¾ is across a deep wide hollow. No heat or air conditioning system; a passive solar system. The home has 2 bedrooms and one bathroom, and is not very marketable.

The assessor contends that the property should be valued at \$70,700 based on the presumption of correctness from the Metro Board of Equalization. The assessor could find no other underground homes in the area.

This is admittedly an unusual home. An underground house is an earth-covered dwelling of poured concrete and concrete block, usually located on grade and bermel – i.e., set into a site that is partly or completely excavated.¹ The county classifies the home as a basement house and defines a basement home as one having square rooms and having the ability to have a structure built on top. Mr. Pardue disagrees with the assessor and alleges that this is not possible with his home because of the earth on top of the dome shaped roof.

Mr. Poling was unable to produce comparable homes to support the value of the home. Mr. Poling stated that he was able to find one home that he considered comparable. The home is located on Ridge Road in Goodlettsville, Tennessee but it was a basement home and he did not do a paired data analysis because it was only one property.

The county candidly admitted that due to the subject being in such poor condition, the value of the land and the structure is almost equal. The parties agree that the value of the storage shed should be eliminated as it is not structurally sound and is virtually unused.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that “[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values. . .”

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$69,800 based upon the evidence produced at the hearing and an analysis of the exhibits produced.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

With respect to the issue of market value, the administrative judge finds that Mr. Pardue simply introduced insufficient evidence to affirmatively establish the market value of subject property as to his figures for January 1, 2005, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

¹ Appraising Residential Properties, 2nd Ed. 1994, p 506.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2005 and 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$35,000	\$34,800	\$69,800	\$17,450

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

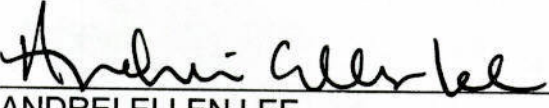
Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 24th day of August, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Phil Pardue
Jo Ann North, Property Assessor